

### **REMARKS**

In the Action mailed July 5, 2001, the Examiner rejected claims 1-23. The Examiner objected to the drawings under 37 C.F.R. §1.83(a), as not including every feature specified in the claims. The Examiner rejected claims 5 and 15 under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point and distinctly claim the subject matter which applicant regards as the invention. The Examiner also rejected claims 1-5, 7-17 and 19-23 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,095,661 to Lebens et al. ("Lebens"). In addition, the Examiner rejected claims 6 and 18 under 35 U.S.C. §103(a) as being allegedly unpatentable over Lebens.

In view of the remarks set forth herein, Applicant respectfully submits that all pending claims, claims 1-23, are in condition for allowance.

#### **A. Objection to the Drawings**

In the Office Action the Examiner objected to the drawings submitted under 37 C.F.R. §1.83(a). The Examiner argued that the drawings must show every feature of the invention that is specified in the claims, and therefore, the LED serving as the light source that is selectively moveable for focusing and dispersing the LED beam as desired must be shown or the feature canceled from the claims.

Applicant respectfully submits that no drawing showing the LED that serves as the light source as being selectively moveable is necessary for an understanding of the subject matter sought to be patented. Under 35 U.S.C. §113, Applicant is only required to furnish a drawing for a proper understanding of the subject matter sought to be patented. In this case, a drawing is not necessary in order to understand that the light source can be selectively moveable and that the selectively moveable part can be moved for focusing and dispersing a LED beam as desired. Furthermore, Applicant's specification at page 5, lines 24-31, with reference to Fig. 1 teaches that either reflector 50 or LED array 30 is rotatable. This text in conjunction with Fig. 1 adequately describes the claimed invention. Therefore, Applicant respectfully submits that no further drawing is necessary. As such, Applicant

requests that the Examiner remove the objections under 37 C.F.R. §1.83(a) and allow the drawings as submitted.

**B. Rejection of Claims 5 and 15 Under §112**

The Examiner rejected claims 5 and 15 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Examiner argued that claims 5 and 15 recite the limitation that "the LED serving as a light source is selectively moveable for focusing and dispersing the LED beam as desired." The Examiner cited the specification at page 5, lines 28-31 in stating that there is insufficient antecedent basis for the limitation in the claim.

Applicant submits that the claimed subject matter, specifically a reflector within a flashlight assembly that is fixed while the LED that serves as a light source can be selectively moveable for focusing and dispersing the LED beam as desired, is in fact supported by the specification. The text of the specification cited by the Examiner provides an alternative embodiment for the invention, specifically where the focusing and dispersion may be adjusted by fixing the reflector and allowing the LED array to move or rotate. As the specification specifically allows for this alternative, it cannot be said that the specification does not provide a proper antecedent basis for the claimed subject matter.

Applicant respectfully submits that sufficient antecedent basis does exist for the limitation in both claims 5 and 15. As such, Applicant requests that the Examiner remove all rejections of claims 5 and 15 under 35 U.S.C. §112, second paragraph, and allow the claims.

**C. Rejection of Claims 1-5, 7-17 and 19-23 under §102(e)**

The Examiner rejected claims 1-5, 7-17 and 19-23 under 35 U.S.C. §102(e) as being anticipated by Lebens. The Examiner stated that Lebens discloses a flashlight assembly which comprises a housing, at least one light emitting diode (LED) and an optical assembly extending from an end of the housing for focusing and dispersing the LED to a desired light contour.

Further, the Examiner argued that Fig. 1 of Lebens shows a plurality of LEDs arranged concentrically around a single LED forming a substantially circular configuration. Also, the Examiner stated that Lebens shows an optical assembly selectively adjustable for focusing and dispersing the LED beam as desired, at col. 7, lines 10-14, and the housing that encloses a series of batteries that operate as a power source for the flashlight, at col. 2, lines 50-54. Further, the Examiner stated that Lebens shows a switch adapted to selectively turn off and on any number of at least one LED, thereby allowing a user to choose from several different levels of illumination at col. 7, lines 30-67, wherein the switch operates as a step level variable control having at least two distinct levels of illumination (see col. 7, lines 10-14). Finally, the Examiner stated that Lebens also shows an electronic current regulator enclosed by the housing for allowing the LED beam to remain at a constant and desired light level or a dynamic pulse control system.

Claim 1 of the present invention calls for a flashlight assembly that comprises a housing, at least one LED mounted within the housing and a reflector which extends from an end of the housing. The reflector disclosed in the present invention is designated by reference number 50 in Fig. 1. As disclosed in the specification, the reflector is substantially cone shaped and has a diameter that increases as the reflector extends outward from the second end of the housing. This reflector is adapted to move or rotate so that the focus and dispersion of the LED beam can be adjusted as desired.

In contrast, the Lebens reference does not teach the use of a reflector as disclosed in the present invention. Rather, as can be seen in Fig. 1 of Lebens, the end of the flashlight housing where the LED beam is emitted is integrated into one unit. As such, the reference in Lebens is not moveable and selectively adjustable as is specifically called for in the presently claimed subject matter. The Examiner states that Lebens shows an optical assembly that is selectively adjustable for focusing and dispersing the LED beam as desired, at col. 7, lines 10-14. However, it is not contemplated within Lebens to use the a reflector. Rather, as is stated in col. 7, lines 10-14, a switch can be utilized to control the functions (and/or brightness) of the invention. Thus, Lebens is different than the present invention in that the reflector whereby the

LED beam as emitted in the present invention, is also selectively moveable to control the light dispersion. As the present invention claims a separate and distinct element from the Lebens reference, specifically a separate reflector that extends from the end of the housing and is selectively moveable for focusing and dispersing the LED beam to a desired light contour, it cannot be said that Lebens anticipates the present invention.

Applicant respectfully submits that claims 1-5, 7-17 and 19-23 are not anticipated by Lebens. Therefore, Applicant respectfully requests that the Examiner remove all objections under 35 U.S.C. §102(e) of claims 1-5, 7-17 and 19-23 and allow the claims as written.

**D. Rejection of Claims 6 and 18 under §103(a)**

The Examiner also rejected claims 6 and 18 under 35 U.S.C. §103(a) as being unpatentable over Lebens. The Examiner stated that Lebens discloses the claimed invention except for specifically disclosing an adjustable switch coupled to a variable resistor for controlling the level of optical output. The Examiner argued that "[i]t would have been obvious to one of ordinary skill in the art at the time of the invention was made to couple any adjustable switch to a variable resistor." Further, the Examiner argued that variable resistors are how light dimmers function, and since they are well known in the art, it would have been obvious for one of ordinary skill in the art at the time that the invention was made to substitute a variable resistor into Lebens.

Applicant submits that claims 6 and 18 are not obvious in view of the Lebens reference. Claim 6 specifically calls for a flashlight assembly that comprises a housing, at least one LED mounted within the housing, a reflector extending from the housing and an adjustable switch coupled to a variable resistor for controlling the level of optical output. Claim 18 specifically calls for a flashlight assembly that comprises a housing, at least one LED mounted within the housing and an adjustable switch coupled to a variable resistor for controlling the level of optical output. Applicant submits that at the time the invention was made it would not have been obvious to use a variable resistor to control the level of optical output for a flashlight assembly.

In fact, Lebens teaches away from using an adjustable switch that is coupled to a variable resistor for controlling a level of optical output. As explained in col. 5, lines 40-57, the Lebens' invention controls the current flow duration or pulse width to limit the power dissipation in the LEDs during the LEDs' on state, and increases the pulse width as the battery voltage decreases over time to maintain constant perceived or average LED intensity over the course of the battery's life. The switching frequency of the pulse width further controls the LED intensity and power dissipation. In contrast, the present invention specifically calls for an adjustable switch that is coupled to a variable resistor that controls the level of output. As explained in the specification at page 6, lines 14-28, the adjustable switch enables a user to selectively turn off and on any number of individual LEDs in the LED array. Therefore, rather than controlling the pulse frequency and the power dissipation of the LED array, the present invention uses the adjustable switch coupled with a variable resistor in order to control the level of illumination. Thus, the present invention controls the levels of illumination in a different manner than is disclosed in the Lebens reference.

As such, Applicant respectfully submits that claims 6 and 18 are in compliance with 35 U.S.C. §103(a) and are not obvious over the Lebens reference. Applicant respectfully requests that the Examiner remove the rejections to claims 6 and 18 and allow the claims as written.

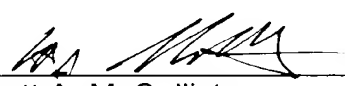
**E. Conclusion**

Applicant respectfully submits that the rejections set forth by the Examiner the Office Action of July 5, 2001 have been overcome. Accordingly, Applicant respectfully requests that claims 1-23 are in condition for allowance. Withdrawal of the rejections and early notification of allowability are earnestly solicited. Should any issues remain, the Examiner is encouraged to contact the undersigned to resolve any such issues.

Respectfully submitted,

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Date: 6/5/01

  
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Attachment: Version with Markings to Show Changes Made

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

1. (Amended) A flashlight assembly comprising:  
a housing;  
at least one light emitting diode (LED) mounted within the housing generating an LED beam and serving as [the] a light source for the flashlight; and

[an optical assembly] a reflector extending from an end of the housing for focusing and dispersing the LED beam to a desired light contour.

4. (Amended) The flashlight assembly according to claim 1, wherein the [optical assembly] reflector is selectively adjustable for focusing and dispersing the LED beam as desired.

5. (Amended) The flashlight assembly according to claim 1, wherein the [optical assembly] reflector is fixed and the LED serving as the light source is selectively moveable for focusing and dispersing the LED beam as desired.

12. (Amended) A flashlight assembly comprising:  
a housing; and  
at least one light emitting diode (LED) mounted within the housing generating [an] a mechanically adjustable LED beam and serving as [the] a light source.

13. (Amended) A flashlight [assembling] assembly according to claim 12, further comprising [an optical assembly] a reflector extending from an end of the housing for focusing and dispersing the at least one LED to a desired light contour.

14. (Amended) The flashlight assembly according to claim 13, wherein the [optical assembly] reflector is selectively adjustable for focusing and dispersing the LED beam as desired.

15. (Amended) The flashlight assembly according to claim 13, wherein the [optical assembly] reflector is fixed and the LED serving as the light source is selectively moveable for focusing and dispersing the LED beam as desired.